IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

OP.No. 5426 of 1997(U)

PETITIONER:

SMT.U.K.NALINI APPU,
POWER OF ATTORNEY HOLDER OF
SMT.T.DHANALAKSHMI BHARATHAN,
PROPRIETOR OF SUNBEAM ESTATE,
POLIBETTA, RESIDING AT HOUSE NO.
5/2137, VETERINARY HOSPITAL ROAD,
CALICUT - 1.

BY ADV. SRI.U.K.RAMAKRISHNAN
SRI.P.V.LOHITHAKSHAN
SRI.K.K.MADHAVAN

RESPONDENTS:

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1. THE SECRETARY, KERALA PLANTATION STAFF
SUPERVISORS AND SPECIAL CATEGORY EMPLOYEES
UNION, (CITU), P.O. MOKKAM,
KOZHIKODE DISTRICT.

2. INDUSTRIAL TRIBUNAL, KOZHIKODE.

BY ADV. SRI.P.RAMAKRISHNAN
SRI.V.V.SURENDRAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 24/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.10027/1997 IN OP.NO. 5426 OF 1997

DISMISSED

24.5.2007 Sd/- S.Siri Jagan, Judge.

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1 True copy of the award dated 31.1.1996 of the second respondent in I.D.No.47/1989 and published in the Kerala Gazette No.43 dated 29.10.1996.

RESPONDENT'S EXHIBITS:

NIL

//true copy//

P.S. to Judge.

S. SIRI JAGAN, J.

O.P. No. 5426 of 1997

Dated this the 24th May, 2007.

J U D G M E N T

The Management in Industrial Dispute No.47/1989 before the Industrial Tribunal, Kozhikode, is the petitioner herein. Petitioner is challenging Ext.P1 award passed by the Industrial Tribunal in the said industrial dispute.

2. The issue referred for adjudication was 'termination of service of Sri.K.Sudhakaran, Accountant, with effect from 31.3.1988'.

3. The contention of the Union before the Industrial Tribunal was that, Sri.K.Sudhakaran, the workman, involved in the dispute was an employee of the Calicut office of the Management from 1958, and his services were terminated on 31.3.1988, alleging that the Management have decided to close down the Calicut head office. The Management contented that the termination of service of the workman was on account of the closure of the Calicut office.

4. The Tribunal found that the workman was employed by the management only with effect from 2.11.1970. After considering the evidence adduced before it, the Tribunal came to the

conclusion that the contention of the management that the Calicut office was closed down cannot be believed, since the management has not produced any document to prove the said contention. The Tribunal also found that the Management did not comply with the procedure prescribed under the Industrial Disputes Act, for retrenchment of the workman, on closure of the establishment. Therefore, the Tribunal held that on that ground also, the version of the management cannot be believed. Accordingly, the Tribunal came to the conclusion that the workman is entitled to be reinstated with full back wages and other consequential benefits. However, in view of the fact that the workman died on 30.10.1992, the Tribunal fixed an amount of Rs.78,642.45 as compensation, including gratuity payable to the legal heirs of the workman. The management is now assailing the said award. The ground on which Ext.P1 is challenged is that the conclusion reached by the Tribunal, on the basis of the evidence, is not correct, and that there is no reliable evidence to come to the said conclusion.

5. In this regard, I must remind myself that my jurisdiction under Article 226 of the Constitution of India, in the matter of interference with the awards of Labour Court and Industrial Tribunal is very limited, especially, in the matter of interfering with findings of facts entered into by the Labour Court or the Tribunal. I

can interfere with such findings of fact only if the findings are demonstrably perverse, which is settled law. On a reading of Ext.P1 award, I do not find anything perverse in the findings entered into by the Tribunal. On the other hand, the Tribunal has given cogent reasons for arriving at the conclusions reached by it in the award.

6. Since the workman was no more, the only relief the Tribunal could grant to the legal heirs was compensation in lieu of the re-instatement of the workman. The award also discloses that the Tribunal has arrived at the amount of compensation on the basis of acceptable materials. Therefore, I do not find any infirmity in the computation of the compensation payable also.

In the above circumstances, I do not find any merit in the challenge against Ext.P1 award. Accordingly, the Original Petition is dismissed, but without any order as to costs.

S. SIRI JAGAN,
JUDGE

nj.

S.SIRI JAGAN, J.

O.P.No. 5426 OF 1997

J U D G M E N T

Dated: 24th May, 2007.